IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8269 OF 2004

M/s. Bhairav Traders
& Ors. . .. Petitioner.

vs.

Vasai Janata Sahakari
Bank Ltd., & Ors. .. Respondents.

Mr. A.N. Maniyar for petitioner.
Mr. S.A. Ghaisas for respondent no.1.

CORAM : S.U. KAMDAR, J.
DATE : 28th November, 2005.

P.C.:

. The present petition is challenging the order dated 14.5.2003 passed by the Divisional Joint Registrar in Revision Application No. 72 of 2003. By the said revision application, the petitioner has challenged the certificate of recovery issued by the Registrar, Maharashtra Co-operative Societies Act, 1960 under Section 101 of the said Act. The only ground of challenge before the Divisional Joint Registrar was that the petitioner who is admittedly the borrower from the respondent Bank was not served

with the recovery notice before filing the application for recovery certificate. The Divisional Joint Registrar has given a finding that it is the petitioner who refused to accept the service of the notice. The learned counsel appearing for the petitioner has also pointed out that in fact one of the guarantor Kishore Jain who was served and who appeared before the Registrar and residential address of Kishore Jain and the petitioner is the same as they are residing together in the same house both being brothers. It was, therefore, contended that in fact the petitioner was no doubt served but he refused to accept the service. Apart therefrom, I find that the recovery certificate has already been executed in as much as the shop of the petitioner is sold in pursuance to the recovery certificate and the amount recovered by the respondent Bank. There is no amount due and payable by the petitioner to the respondent after the recovery certificate is executed and shop premises are sold. In that view of the matter, nothing survives in the present petition. Petition is therefore, dismissed. There shall be no order as to costs.